

PUBLIC ADMONISHMENT OF JUDGE JOHN B. GIBSON

The Commission on Judicial Performance has ordered Judge John B. Gibson publicly admonished pursuant to article VI, section 18(d) of the California Constitution and commission rule 115, as set forth in the following statement of facts and reasons found by the commission:

STATEMENT OF FACTS AND REASONS

Judge John B. Gibson was appointed to the Municipal Court of San Bernardino County in 1990, and elevated to the San Bernardino County Superior Court in 1998 upon unification of the trial courts. His current term began in January 2007.

Based on the facts below, the commission found that Judge Gibson failed to maintain high standards of conduct, failed to act in a manner that promotes public confidence in the judiciary, and failed to be dignified, patient and courteous to those with whom he deals in an official capacity.

1. On May 12, 2010, the *People v. Nelson* case was sent to Judge Gibson's courtroom for assignment to a trial department. A female attorney representing the defendant had an appearance in another courtroom that morning and sent a male attorney from her office to appear before Judge Gibson on the *Nelson* case in her place. When Judge Gibson called the *Nelson* case, the male attorney announced that the defense was ready for trial but that the defense witnesses had not been subpoenaed to appear until the following week. Judge Gibson displayed irritation, impatience and sarcasm with the defense attorney because the defense witnesses had been subpoenaed for the following week.

Later the same day, the female attorney representing Mr. Nelson appeared before Judge Gibson and explained why the defense witnesses had been subpoenaed for the following week. Although Judge Gibson told the female attorney that she was probably right in her reasoning, he also displayed sarcasm and annoyance toward her in open court.

Later the same day, Judge Gibson ordered the female attorney and another attorney from the same office into his chambers, where he made rude, insensitive and inappropriate remarks to the female attorney about the male attorney who had appeared on her behalf earlier that day. Judge Gibson exhibited irritation toward the female attorney and said to her words to the effect of, "He was incompetent and just stood in the courtroom scratching his balls and picking his nose," or "He was incompetent and just stood in the courtroom scratching his ass and picking his nose." Judge Gibson accompanied this remark with gestures indicating the aforementioned actions.

2. In early 2010, Judge Gibson and one male attorney and one female attorney were standing in the hallway beside the judge's chambers, where he told them a story about when he was a young defense attorney and a prosecutor verbally intimidated him

while they were both standing at a urinal. While telling the story, Judge Gibson gestured in front of his groin as if he were using a urinal.

3. On another occasion, Judge Gibson referred to a tall, thin female attorney with short hair who appeared before him as a “Q-tip.”

The commission found that Judge Gibson’s conduct constituted a violation of canons 1 and 2A of the Canons of Judicial Ethics (judges are to maintain high standards of conduct and to act in a manner that promotes public confidence in the integrity of the judiciary) and a violation of canon 3B(4) (judges shall be dignified, patient and courteous to those with whom they deal in an official capacity).

Judge Gibson’s conduct in the matter described above was, at a minimum, improper action.

In imposing this discipline, the commission took into account Judge Gibson’s public admonishment in 2000 for similar insensitive and inappropriate conduct involving individuals with whom he dealt in an official capacity. The judge’s prior public admonishment was for inappropriate acts toward a female employee that included making sexually suggestive comments, writing and sending a sexually suggestive memo, writing and delivering another memo that was intended as humorous about putting the employee to death, and sticking his finger out of his robe while saying, “Say hello to Mr. Bobo,” as well as for grabbing and kissing a female probation officer on the lips in the courtroom.

Commission members Justice Judith D. McConnell, Judge Katherine Feinstein, Mr. Anthony P. Capozzi, Mr. Peter E. Flores, Jr., Judge Frederick P. Horn, Ms. Barbara Schraeger, Mr. Lawrence Simi, Ms. Maya Dillard Smith, Ms Sandra Talcott, and Mr. Nathaniel Trives voted for the public admonishment. Mr. Samuel A. Hardage did not participate.

December 14, 2010